

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 AID-05 SS-15 STR-04
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 FEA-01
STRE-00 AF-08 ARA-06 EA-07 NEA-10 OIC-02 /133 W
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FM USMISSION GENEVA
TO SECSTATE WASHDC 6412
INFO USMISSION EC BRUSSELS

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EB/OT FOR BARRACLOUGH

PASS AGRICULTURE

PASS STR ELECTRONICALLY

EO 11652: XGDS1
TAGS: GATT, ETRD, EEC
SUBJ: GATT PANEL ON MIPS

REF: GENEVA 2339

BEGIN SUMMARY. MISSION HAS EXPOLORED STATUS OF MIP PANEL (REF-
TEL) WITH PERTINENT GATT OFFICIALS AND PANEL CHAIRMAN. PANEL
COULD STILL COMPLETE ITS WORK BEFORE SUMMER BREAK, PRO-
VIDED EC COOPERATES ON MEMBERSHIP. POSSIBLE IMPLICATIONS OF ANY EVEN-
TUAL CONCLUSION FOR CAP WILL BE A FACTOR IN THE DECI-
SION. SUGGEST WE MAKE AN ADDITIONAL PRESENTATION. END SUMMARY.

1. PANEL SEEMS GENUINELY TO HAVE STUCK OVER SUBSTANCE, AL-
THOUGH WE BELIEVE MEMBERS MAY ALSO HAVE BEEN INDIRECTLY
INTIMIDATED BY THE POSSIBILITY THAT A LEGAL FINDING
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AGAINST PART OF EC MIP/SURETY DEPOSIT/LICENSING SYSTEM
MIGHT IMPLICATE CAP.

2. PLEASE PROTECT ALL SOURCES QUOTED IN THIS MESSAGE,
AS INFORMATION WAS PROVIDED IN CONFIDENCE.
3. CHAIRMAN OF PANEL (JAGMETTI) SAID SUBJECT MATTER

BECAME MORE INVOLVED THE DEEPER THE PANEL LOOKED, AND HE FELT IT WOULD NOT HAVE BEEN RESPONSIBLE TO FORCE A CONCLUSION, AS HE HAD HOPED HE COULD, BEFORE DEPARTURE YOSHIKUNI AND EGGERT. HAD THEY BEEN AVAILABLE TO STAY IN GENEVA, IT WOULD HAVE BEEN POSSIBLE IN A FEW MORE WEEKS FOR PANEL TO COME TO A CONCLUSION; THUS, PANEL WAS NOT REALLY DEADLOCKED. JAGMETTI SUGGESTED THE TWO DEPARTING MEMBERS HELD "CLEAREST" OPINIONS OF THE FIVE PANELISTS, BUT HE WAS CAREFUL NOT TO HINT WHETHER THEIR OR OTHERS' VIEWS WOULD HAVE FAVORED OR OPPOSED U.S. CASE.

4. A MEMBER OF GATT SECRETARIAT HAS SUGGESTED THAT EC INDIRECTLY ENCOURAGED PANEL TO SEE ITS TASK AS COMPLEX. WE THEREFORE ASKED JAGMETTI WHETHER PANEL'S DESIRE TO EXPLORE MATTER MORE DEEPLY WAS RESULT OF OUTSIDE SUGGESTION BY ANY MEMBER OF SECRETARIAT OR BY ANYONE ELSE. HE SAID NO. JAGMETTI SAID PANEL WAS RELYING HEAVILY ON SECRETARIAT FOR SUPPORT AND RESEARCH INTO PRECEDENTS, BUT HE DISMISSED ANY KNOWLEDGE OF IMPROPRIETY.

5. JAGMETTI ADDED, HOWEVER, THAT IMPLICATIONS FOR CAP OF ANY FINDING OF ILLEGALITY IN THIS CASE COULD NOT BE IGNORED, AND ALL PANELISTS WERE BEARING THIS IN MIND.

6. JAGMETTI SAID HE BELIEVED PANEL COULD AND WOULD REACH CONCLUSIONS. HE FELT THAT WORK COULD BE COMPLETED BEFORE SUMMER BREAK IF WE AND EC COULD AGREE ON TWO REPLACEMENT MEMBERS WITH GOOD GATT EXPERIENCE. WHEN WE
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RAISED POSSIBILITY OF CONTINUING WITH THE REMAINING THREE. HE HINTED THAT WORK WAS LIKELY TO MOVE MORE QUICKLY WITH TWO STRONG REPLACEMENTS FOR EGGERT AND JAGMETTI. COMMENT: OBVIOUSLY, THE LARGER THE MEMBERSHIP, THE LESS RESPONSIBILITY FALLS UPON JAGMETTI.

7. GATT DEPUTY D-G PATTERSON CALLED ECMIN TO SAY THIS WAS ONE OF THE MOST SERIOUS CASES PUT BEFORE THE GATT. PATTERSON ENCOURAGED US TO ENDEAVOR REACH OUT-OF-COURT SETTLEMENT WITH EC, PERHAPS DURING FORTHCOMING U.S.-EC BILATERALS. WE SAID WE SAW LITTLE PROSPECT THAT THIS WOULD WORK BUT PROMISED TRANSMIT THE SUGGESTION TO WASHINGTON. PATTERSON FELT PANEL WAS CONDUCTING ITS WORK OBJECTIVELY WITHOUT IMPROPER INTERFERENCE. WHILE HE SAID SECRETARIAT HAD NO POSITION ON HOW PANEL SHOULD PROCEED IN VIEW OF YOSHIKUNI AND EGGERT DEPARTURE, HE PERSONALLY SEEMED FAVOR GOING ON WITH PRESENT THREE.

8. WE SEE FOLLOWING U.S. OPTIONS: A) SEEK

EARLY EC AGREEMENT ON TWO REPLACEMENT MEMBERS (IN THIS RESPECT,IWE WOULD SUGGEST NOMINATING CANDIDATES OF THE STATURE OF SELMER OF NORWAY); B) IF EC SHOULD DELAY AGREEMENT ON THE REPLACEMENT MEMBERS--AS WELLL THEY MIGHT-- WE COULD ASK PANEL TO GO AHED WITH CURRENT THREE MEMBERS (JAGMETTI, SWITZERLAND; SEGALLA, AUSTRALIA; BRECKENRIDGE, SRI LANKA). THERE ARE DANGERS IN EACH APPROACH.ICONINUING WITH THE CURRENT THREE MEMBERS WOULD FLY IN THE FACE OF JAGMETTI'S SIGNAL THAT WORK MIGHT BECOME MUDDLED WITHOUT THE ADDITION OF TWO STRONG REPLACEMENTS. IT IS OUR BELIEF THAT EC, IF BENT UPON DELAYING THE PROCEEDINGS FURTHER, WOULD DELAY THE SELECTION OF TWO QUALIFIED REPLACEMENTS AND BLOCK THE NOMINATION OF ALL CANDIDATES NOT ACCEPTABLE TO THEM. EQUALLY,IHOWEVER, IF WE OPT TO CONTINUE WITH THE EX-ISTING THREE, EC COULD STILL DELAY BY INSISTING ON A TOTAL OF FIVE WITH REPLACEMENTS. PLEASE ADVISE.

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9. MEANWHILE, WASHINGTON MAY WISH DEVISE A FURTHER WRITTEN PRESENTATION TO THE PANEL WHICH WOULD ENABLE PANEL TO MAKE SOME FINDINGS HELPFUL TO US WITHOUT FEELING THEY ARE IMPLICATING THE CAP--AS WE DOUBT THEY WOULD EVER DO THE LATTER. ONE MEANS MIGHT BE TO DANGLE BEFORE THE PANEL A NEW U.S. STATEMENT THAT WE DO NOT DESIRE A FIND-ING WHICH WOULD GO BEYOND JUDGMENT ON THOSE MEASURES NOW IN FORCE. SORENSEN

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